

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #2	CCRB Case #: 201808483	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/02/2018 7:00 PM	Location of Incident: [REDACTED]	Precinct: 90	18 Mo. SOL 9/2/2019	EO SOL 9/2/2019	
Date/Time CV Reported Fri, 10/12/2018 3:38 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 10/12/2018 3:38 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			090 PCT
2. POM Mauro Depaz	21967	962356	090 PCT
3. POM Nicholas Horun	10848	928499	090 PCT
4. SGT Jung Kim	04046	943439	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Harris Basir	20567	962941	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Horun	Abuse: Police Officer Nicholas Horun entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.POM Nicholas Horun	Force: Police Officer Nicholas Horun used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C. Officers	Abuse: Officers forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On October 12, 2018, § 87(2)(b) filed this complaint in-person at the CCRB.

On March 2, 2018, at approximately 6:00 p.m. § 87(2)(b) was in his apartment at § 87(2)(b) in Brooklyn, when his lights, water, and kitchen sink malfunctioned. He contacted another resident in his building about it, knocked on the doors of the other residents, and then returned to his apartment.

Sometime later that night, Police Officer Nicholas Horun and Police Officer Mauro Depaz, both of the 90th Precinct, went to § 87(2)(b)'s apartment and knocked on the door. § 87(2)(b) answered, and Police Officer Horun requested entry. Police Officer Horun entered and was followed into the apartment by Police Officer Depaz (**Allegation A: Abuse of Authority- Entry- § 87(2)(g)**). Shortly thereafter, Sergeant Jung Kim and Police Officer Harris Basir, also of the 90th Precinct, along with § 87(2)(b) and § 87(2)(b) of FDNY arrived. EMS made the decision to take § 87(2)(b) to the hospital. Police Officer Horun allegedly pushed § 87(2)(b) onto his bed before handcuffing him (**Allegation B: Force-Physical Force- § 87(2)(g)**) (**Allegation C: Abuse of Authority- Forcible Removal- § 87(2)(g)**). § 87(2)(b) was removed to § 87(2)(b) in Manhattan as a result of this incident. § 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

No video footage was found for this incident. § 87(2)(b) was not arrested as a result of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Nicolas Horun entered § 87(2)(b) in Brooklyn.

§ 87(2)(b) was interviewed on October 12, 2018. Police Officer Horun and Police Officer Depaz were interviewed on November 7, 2018. Police Officer Basir was interviewed on December 10, 2018. Police Officer Hendriks and Police Officer Doxsee were interviewed on December 12, 2018. Sergeant Kim was interviewed on December 18, 2018. EMT § 87(2)(b) was interviewed on January 15, 2019. EMT § 87(2)(b) was interviewed on February 25, 2019. On November 27, 2018, an individual was reached at the number from which the 911 call in this incident was made, but he disconnected the call, and did not respond to subsequent contact attempts (Board Review 03).

§ 87(2)(b) stated that on the day of the incident he was having issues with his lights, which were off, with his water, which was running, and his drain, which was clogged, and he sought assistance from the head of his tenant association. He was unsuccessful in looking for a translator for this person, who spoke only Spanish. After knocking on doors unsuccessfully for a translator, he returned to his apartment. Shortly thereafter, officers began knocking on his door. When § 87(2)(b) opened the door, he allowed in Police Officer Horun, in order to help with his water and drain. Once Police Officer Horun came in, over ten more officers came in behind him.

Police Officer Horun stated that this incident began when he responded to a call for a person in need of medical care. He did not recall the specific details but believed that this person

was emotionally disturbed, because a patrol supervisor was automatically dispatched as well, which usually occurs in such circumstances. Police Officer Horun stated that he was the officer who knocked on the door, and the first officer to make police contact with § 87(2)(b) § 87(2)(b) was rambling and saying that people were watching him, as well as that he did not know when he should be taking his medication. § 87(2)(b) gave Police Officer Horun permission to go inside the apartment, and Police Officer Horun was the first officer to enter the apartment. When § 87(2)(b) opened the door for Police Officer Horun to come in, Police Officer Horun noticed that the burners on his stove were on very high, with a pot boiling over on the stove. Police Officer Horun turned off the burners, and tried to turn on the water by turning on the tap. Several minutes after he entered, Police Officer Depaz and the rest of the officers and EMS filed in. Police Officer Horun denied that § 87(2)(b) communicated that he did not want other officers besides him in the apartment.

Police Officer DePaz stated that Police Officer Horun was the officer who spoke with § 87(2)(b) at the door. Police Officer DePaz did not recall the details of what § 87(2)(b) said to Police Officer Horun, but recalled at some point, § 87(2)(b) said something about aliens. When Police Officer Horun went into the apartment, Police Officer DePaz went into the apartment immediately afterwards, to ensure that it was safe for EMS to enter. He saw the burners on the stove in § 87(2)(b)'s apartment turned up high without a pot. He also noticed that the apartment was malodorous and strewn with garbage and cat feces.

Sergeant Kim stated that by the time he arrived at the apartment, the door was open, and Police Officer Horun and Police Officer DePaz were inside and talking to § 87(2)(b). Police Officer Basir remembered being near the door of the apartment, and he remembered Sergeant Kim going inside, but he did not go inside himself. Neither Sergeant Kim nor Police Officer Basir remembered § 87(2)(b) saying that they could not go inside, or tell them to leave.

Neither EMT § 87(2)(b) nor EMT § 87(2)(b) remembered this incident. They both stated that they respond to multiple jobs for emotionally disturbed people each day.

The 911 call that generated EVENT # § 87(2)(b) (Board Review 11) was made by an unidentified male individual who reported that there was a violent “crazy person” in § 87(2)(b)'s apartment (Board Review 01). The caller could not say whether there were any weapons. The radio runs in this case showed that the information related to officers was that there was a violent emotionally disturbed person in § 87(2)(b)'s apartment who was described as a Korean male. The radio runs also indicated that 90A, the sector consisting of Police Officer Horun and Police Officer DePaz, was the first unit to respond. EMS appears to have been automatically dispatched. (Board Review 04).

Both the Ambulance Call Report (ACR) and the records from § 87(2)(b) indicated that § 87(2)(b) received treatment for lack of compliance to his medications, which were lithium, clonazepam, and ziprasidone. The Ambulance Call Report stated that he was “delusional.” The § 87(2)(b) records indicated that § 87(2)(b) was suffering from delusions, that he was accusing his neighbors of stealing his marijuana, and that he was using threatening language towards hospital staff (Privileged Documents).

People v Rodriguez, 77 A.D.3d 280 (2010) stipulates that, entry into a home is permissible without a warrant if law enforcement officers reasonably believe that emergency assistance is needed, and that the area that officers enter is associated with the emergency by something approximating probable cause (Board Review 05).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Police Officer Nicholas Horun used physical force against § 87(2)(b)

Whether Police Officer Horun used force against § 87(2)(b) is in dispute. § 87(2)(b) stated that Police Officer Horun shoved him for 10 to 12 feet before handcuffing him on his bed.

Police Officer Horun did not remember whether he handcuffed § 87(2)(b). He stated that if § 87(2)(b) had been handcuffed, then he would have been the officer to do it. He remembered § 87(2)(b) stating that he did not want to go to the hospital, but he did not remember if he physically resisted. He denied shoving § 87(2)(b).

Sergeant Kim, Police Officer Depaz, and Police Officer Basir all did not see § 87(2)(b) being shoved during this incident.

EMT § 87(2)(b) and EMT § 87(2)(b) did not have any independent recollection of this incident. The ACR stated that § 87(2)(b) walked out “with assistance,” and his medical records from § 87(2)(b) stated that he was handcuffed upon arrival at the psychiatric emergency room. Neither document noted any injuries, or that § 87(2)(b) expressed any physical pain.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Officers forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated that he was taken forcibly by officers into an ambulance.

Police Officer Horun stated that after he went into the apartment, he communicated to EMS, who were in the apartment, that he did not think that § 87(2)(b) could stay at home safely. The EMTs then told him that § 87(2)(b) did not have the right to refuse, and that they were going to take him to the hospital.

Police Officer DePaz stated that while in the apartment, EMS interviewed § 87(2)(b) and determined that he was not taking his necessary medication, and that he needed

to go to the hospital. Sergeant Kim stated that he did not need to make the determination to take § 87(2)(b) to the hospital, as § 87(2)(b) was being compliant with EMS.

Neither EMT § 87(2)(b) nor EMT § 87(2)(b) had any independent recollection of the incident. They both, however, viewed the ACR prepared for this incident. EMT § 87(2)(b) stated that were a patient not taking the medications prescribed to § 87(2)(b) that is, lithium, clonazepam, and ziprasidone, then that individual would not be able to refuse to go to the hospital.

Patrol Guide Procedure 216-01 requires officers to cooperate with ambulance personnel in every reasonable manner possible when responding to medical emergencies (Board Review 12).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- Police Officer Horun has been a member of service for 17 years. 18 complaints, with 30 allegations, of which one has been substantiated, have been filed against him.
 - Case 200700837 involved a substantiated allegation of refusal to provide name and shield number. The CCRB recommended Command Discipline, and the Department found Police Officer Horun not guilty at administrative trial.
 - § 87(2)(g) [REDACTED]
- Police Officer DePaz has been a member of service for two years, and this is the second CCRB complaint to which he is a subject. The other case to which Police Officer DePaz is a subject, Case #201810125 is under investigation.
 - § 87(2)(g) [REDACTED]
- § 87(2)(b) [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) [REDACTED]
[REDACTED] (Board Review 09).
- As of February 14, 2019, the New York City Office of the Comptroller does not have any record for a Notice of Claim for this incident (Board Review 10).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____

Signature

Print Title & Name

Date

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